



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0074; Notice 2]

Baby Jogger, LLC, Ruling on Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT).

**ACTION:** Ruling on petition for inconsequential noncompliance.

**SUMMARY:** Baby Jogger, LLC (Baby Jogger), has determined that certain Baby Jogger rear-facing infant seats and bases do not fully comply with paragraphs S5.5, S5.6, S5.8, and S8.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. Baby Jogger filed an associated report dated June 4, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Baby Jogger then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

**ADDRESSES:** For further information on this decision contact Zachary Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5754, facsimile (202) 366-3081.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Baby Jogger submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on September 8, 2015 in the Federal Register (80 FR 53914). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0074."

**II. Child Restraints Involved:** Affected are approximately 15,103 of the following Baby Jogger rear-facing infant seats and bases manufactured between November 3, 2014 and April 30, 2015:

- City GO Infant Car Seat/Model No. BJ64510
- City GO Infant Car Seat/Model No. BJ64529
- City GO Base for Infant Car Seat/Model No. BJ80400
- City GO Base for Infant Car Seat/Model No. BJ61500
- City Mini Infant Cars Seat/Stroller Travel  
System/Model No. BJ72510

- Vue Lite Infant Car Seat/Stroller Travel System/Model No. BJ70411
- Vue Lite Infant Car Seat/Stroller Travel System/Model No. BJ70424
- Vue Lite Infant Car Seat/Stroller Travel System/Model No. BJ70431

**III. Noncompliances:** Baby Jogger explains that the affected child restraints do not fully comply with numerous paragraphs of FMVSS No. 213 for the following reasons:

Paragraph S5.5.2 - The required information in English is no smaller than 10 point type, but the Spanish information is smaller at about 7 point type. This only applies to models BJ64510 and BJ64529.

Paragraph S5.5.2(d) - The "manufactured in address" on the label is in about 8 font which is smaller than the required 10 point type.

Paragraph S5.5.2(m) - The required "Child restraints could be recalled for safety reasons..." text is on a black background with white text instead of black text on a white background.

Paragraph S5.5.2(g) (1) - The label has the "Follow all instructions..." ahead of the "Secure this child restraint"

statement, instead of the reverse order as required. This noncompliance only affects models BJ64510 and BJ64529.

Paragraph S5.5.2(n) - The label has "This child restraint is certified for use in motor vehicles and aircraft." Other than the first word, no other words are capitalized.

Paragraph S5.5.2.(k) (3) (ii) - The message area measures 23.4 square cm on models BJ70411, BJ70424 and BJ70431 which is less than the minimum required message area of 30 square cm.

Paragraph S5.5.2.(k) (3) (iii) - On models BJ70411, BJ70424 and BJ70431 the red circle on the required pictogram is 29 mm in diameter which is less than the required 30 mm in diameter.

Paragraph S5.6.1.7 - The instruction manuals do not include reference to the required Web site in the section regarding child restraint recalls.

Paragraph S5.6.3 - The instruction manuals do not include the required statement "A snug strap should not allow any slack..."

Paragraph S5.8.2(a) (1) - The electronic registration form does not have the required statement "FOR YOUR CHILD'S CONTINUED SAFETY..."

Paragraph S5.8.1(b) (2) - Figure 9a requires minimum 10 percent screen tint on the lower half of the form. The form is missing the required tinting.

Paragraph S8.1 - No instructions for installing the system in an aircraft passenger seat were provided.

**IV. Summary of Baby Jogger's Analyses:** Baby Jogger organized its reasoning to substantiate inconsequentiality into the following five issue groupings that it believes are similar between the numerous noncompliances:

- a. Information Type Size/Capitalization/Presentation Order
- b. Background Color
- c. On-Product Label Message Area and Pictogram Sizes
- d. Omitted Information
- e. Spanish Language Type Size

Refer to Baby Jogger's petition for their complete reasoning and associated illustrations. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0074."

Baby Jogger additionally informed NHTSA that they have corrected all labeling noncompliances and that all future production of the subject infant car seat/stroller systems and stand-alone units will be in full compliance with FMVSS No. 213.

In summation, Baby Jogger believes that the described noncompliance of the subject infant car seat/stroller systems and standalone units is inconsequential to motor vehicle safety, and that its petition, to exempt Baby Jogger from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**NHTSA'S DECISION:**

*NHTSA's Analysis:* NHTSA examined the noncompliances that Baby Jogger described in its petition by category as follows:

- a. Information Type Size/Capitalization/Presentation Order:  
Baby Jogger printed labels required in paragraph S5.5.2 containing the place of manufacture in 8 point type rather than the required 10 point type. Baby Jogger believes the smaller type of the place of manufacture will not have any impact on child passenger safety. Baby Jogger failed to capitalize certain first letters of words contained in a label to instruct the user that the restraint is certified for use in motor vehicles and aircraft (paragraph S5.5.2(n)). Baby Jogger believes the lower case letters will not have any impact on child passenger safety.  
Finally, Baby Jogger printed on-product labels with two of the required statements of paragraph S5.5.2(g) (1) in incorrect order. Baby Jogger believes the out of order

information will not have any impact on child passenger safety.

NHTSA does not concur with Baby Jogger's reasons for inconsequentiality stated above. With regard to the noncompliant 8 point font size, in the Final Rule establishing FMVSS No. 139, "New pneumatic radial tires for light vehicles," the agency stated "With respect to the size of the text on the placard and label, NHTSA learned from focus groups that the public generally prefers larger fonts in label text because it is easier to read. This helps ensure the placard and label will effectively convey the message to the reader."<sup>1</sup> Also, in a Notice of Proposed Rulemaking to upgrade dynamic testing in FMVSS No. 213, the agency originally proposed that labeling be in block lettering "3/32 inch high."<sup>2</sup> In the final rule to upgrade FMVSS No. 213, the agency changed this to "10 point type" and made other changes in response to a comment from General Motors.<sup>3</sup> General Motors stated "The proposal restricts the lettering to block lettering which results in instructions which are hard to read. We recommend that the body type for the label be specified to require at least a 10 point type, based on the character case with the option

---

<sup>1</sup> 67 FR 69600; November 18, 2002

<sup>2</sup> 43 FR 21470; May 18, 1978

<sup>3</sup> 44 FR 72131; December 13, 1979

of using capitals or upper and lower case. We believe this specification will result in an easier to read label which, in turn, should promote more complete reading of the label by the consumer."<sup>4</sup>

For these reasons, NHTSA believes that font size less than the required 10 point type results in undesirable reading conditions which may cause eye strain and lead to the consumer failing to complete reading all the important safety instructions.

Baby Jogger failed to capitalize certain first letters of words contained in a label to instruct the user that the restraint is certified for use in motor vehicles and aircraft (paragraph S5.5.2(n)). Baby Jogger believes the lower case letters will not have any impact on child passenger safety.

The agency believes that failure to capitalize the required statements for proper use of child restraints may result in the consumer not adequately seeing and understanding the important safety information pertaining to proper use of the restraints.

Baby Jogger printed on-product labels with two of the required statements of paragraph S5.5.2(g)(1) in incorrect order. Baby Jogger believes the out of order information

---

<sup>4</sup> Docket no. 74-09-N04, comment #78, sent 12/1/78



will not have any impact on child passenger safety because the statements are stand-alone and do not depend on another statement; therefore, the order of bulleted statements do affect the proper use of the car seat.

NHTSA disagrees with this reasoning. S5.5.2(g)(1) requires the heading “‘WARNING! DEATH or SERIOUS INJURY can occur’, capitalized as written and followed by bulleted statements **in the following order:**” (emphasis added). The order of statements follows a sequence beginning with instructions for rear-facing usage (S5.5.2(k)(1)), the maximum mass of children that can safely occupy the system (S5.5.2(f)), the proper adjustment of the belts provided with the child restraint (S5.5.2(h)), instructions for securing a child restraint to the vehicle with a top tether strap (S5.5.2(j), and instructions for securing a booster seat to the vehicle using the vehicle’s seat belt system (S5.5.2(i)). Baby Jogger incorrectly placed the statements required by S5.5.2(i) before the statements required by S5.5.2(j). The agency intentionally created a sequence of information that begins with instructions that call for interaction between the occupant and the restraint system, and ends with instructions that call for interaction between the occupant and the written instruction. If this sequence is disrupted by placing items out of order the

user could become distracted and disregard important instructions.

The agency believes the above label noncompliances, in totality, have a compounding effect that may result in the user mistrusting information on the labels and thereby ignoring the labels.

b. Background Color:

Baby Jogger notified the agency of the following two noncompliances related to background color:

- (1) Paragraph S5.5.2 requires a label with information that child restraints could be recalled for safety reasons to be printed on a white background with black text. The noncompliant label contains the required information but is printed on black background with white text. Baby Jogger believes there is no indication that the reversed color combination will affect consumers' ability to understand the information on the label, and, therefore, the contrasting colors will not have any impact on child passenger safety.

NHTSA disagrees with Baby Jogger's assessment that the reversal of required text/label color will not affect the consumers' ability to understand the label. A visual

inspection of the label in a photograph provided by Baby Jogger shows that the white text on the black background is not as easy to read as the compliant text located above. (This picture is located in the docket). The consumer may not read the label in its entirety if the ability to read the information on the label creates a challenge to the reader, which would result in the reader not being aware of important recall information.

- (2) S5.8.1(b) (2) requires the registration form to conform to Figures 9a and 9b which require portions of the card to have a minimum 10% screen tint. The registration card provided by Baby Jogger does not have any screen tint. Baby Jogger believes that the missing screen tint will not have an impact on motor vehicle safety because there is no indication that the missing tint will affect consumers' ability to understand the information on the registration card.

The image of the registration card provided in Baby Jogger's petition would seem to support Baby Jogger's argument that the missing tint does not affect the ability to understand the required information provided on the registration card.

c. On-Product Label Message Area and Pictogram Sizes:

Three of the Baby Jogger models have the air bag warning label required by paragraph S5.5.2(k) (3) (ii) with a message area measuring 23.4 square cm which is less than the minimum required message area of 30 square cm. Baby Jogger does not believe the noncompliance creates a risk to motor vehicle safety because the label is prominently displayed and clearly communicates the required warning, and there is no indication that the sizing issue affects customers' ability to understand the warnings. In addition, the pictogram required in paragraph S5.5.2(k) (3) (iii) for the Baby Jogger label measures 29 millimeters in diameter which is less than the minimum required diameter of 30 millimeters. Baby Jogger believes that the pictogram that is 1 millimeter too small will not have any impact on child passenger safety.

In addition, Baby Jogger maintains for both noncompliances above that the required information is provided in the printed instructions and is prominently featured on the affected products, and there is no indication that the sizing issue affects consumers' ability to understand or appreciate the warnings.

We disagree with Baby Jogger that the smaller than required air bag warning label message area creates no risk to motor vehicle safety. The air bag warning labels are the

agency's primary method for obtaining the consumer's attention and conveying important safety information with respect to the proper location to install a rear-facing child restraint. The agency believes that these air bag warning labels are necessary to make consumers aware of the potentially serious consequences of placing a rear-facing child seat or any child twelve and under on the front seat with an air bag, and that the rear seat is the safest place for these children. In NHTSA's occupant crash protection rule published on May 12, 2000,<sup>5</sup> the agency stated "...as with the current labels, manufacturers may provide translations of the required English language message as long as all the requirements for the English language are met, **including size**"<sup>6</sup> (emphasis added). Thus, the agency reconfirmed the importance of the message area requirement in the advanced air bag final rule.

The air bag warning label requirements in FMVSS No. 213, *Child Restraint Systems*, were established as part of a FMVSS No. 208, *Occupant Crash Protection*, final rule requiring new air bag warning labels in motor vehicles.<sup>7</sup> The intent of the final rule is that the warning or alert

---

<sup>5</sup> 65 FR 30680

<sup>6</sup> 65 FR 30722

<sup>7</sup> 61 FR 60206; November 27, 1996

message fills the message area.<sup>8</sup> Not filling the message area would make purposeless the specification. The Baby Jogger label has a message area that is 22 percent below the required 30 square cm. This is a significant reduction in message area equivalent to not filling the message area.

The pictogram of the air bag warning label has a diameter that is 3 percent below the required 30 mm. Even though the pictogram minimum format is not met, NHTSA believes in this case that the consumer will have a message size that is acceptable.

d. Omitted Information:

Baby Jogger notified the agency of the following four noncompliances related to missing information required in the printed instructions or electronic registration form in FMVSS No. 213:

- (1) Paragraph S5.6.1.7 requires the printed instructions to include the statement in paragraph (ii) that "Child restraints could be recalled...or register on-line at (*insert Web site for electronic registration form*)."
- The printed instruction manual does not include the Web site address in the section regarding child restraint registration. Baby Jogger does not believe the

---

<sup>8</sup> 61 FR 60206 at 60210

noncompliance with paragraph S5.6.1.7 creates a risk to motor vehicle safety since on-line registration is optional.

The agency disagrees with Baby Jogger that the missing information for on-line registration does not create a risk to motor vehicle safety. While the manufacturer has the choice to provide on-line registration or not, if the manufacturer does provide the option for on-line registration then they are required to provide the Web site address in the section regarding child seat registration. The agency recognizes the importance of child restraint registrations. To support increasing the number of registrations, the agency is currently studying efforts to increase the rate of child restraint registrations so that in the event of a recall, all owners of affected units will be notified of a potentially unsafe product.

- (2) Paragraph S5.6.3 requires the printed instructions to include the statement: "A snug strap should not allow any slack. It lies in a relatively straight line without sagging. It does not press on the child's flesh or push the child's body into an unnatural position." The printed instruction manual does not include this information. Baby Jogger does not believe that this noncompliance creates a risk

to motor vehicle safety because the printed instructions provide adequate text to adjust the harness around the child including statements addressing snugness and sagging (see Baby Jogger's Petition in Docket NHTSA-2015-0074 for detail).

NHTSA disagrees with Baby Jogger that the provided text to address strap snugness in lieu of the required text is sufficient to replace the required text. The text provided by Baby Jogger contains additional information not related to strap snugness. In addition, the provided text fails to provide guidance to achieve a snug fit which may result in an improper securing of the child in the restraint and a compromise of the child seat's safety effectiveness in the event of a crash.

- (3) Paragraph S8.1 requires the printed instructions to include a step-by-step procedure (including diagrams) for installing the system in aircraft passenger seats, securing a child in the system when it is installed in aircraft, and adjusting the system to fit the child. The printed instruction manual does not include instructions for installing the system in aircraft passenger seats. Baby Jogger does not believe that the missing aircraft installation information creates



a risk to motor vehicle safety because the printed instructions address the installation of the child seat in a vehicle equipped with a lap belt only, which is similar to the installation of the child seat in an aircraft passenger seat with lap belt only. Baby Jogger believes that the installation instructions provided for a vehicle lap belt will be logically understood as the method to secure the child seat to the aircraft passenger seat.

NHTSA disagrees with Baby Jogger's line of reasoning. We have concerns that absent the required instructions specific to aircraft passenger installation, the user will be unprepared to properly secure the child restraint to the aircraft passenger seat, properly secure the child when it is installed in an aircraft, and properly adjust the system to fit the child. These potential improper procedures could result in a compromise of the child seat's safety effectiveness during flight.

- (4) Paragraph S5.8.2(a)(1)(i) requires the electronic registration form to contain the statement "FOR YOUR CHILD'S CONTINUED SAFETY" at the top of the form. The electronic registration form on the Baby Jogger website did not include this

statement at the top. Baby Jogger believes that users of child restraints have a basic understanding that recalls are conducted for safety reasons, and that one who navigated to the electronic registration form would not be dissuaded from registering due to the missing phrase.

The Agency agrees that a consumer who has navigated to the on-line registration will not be dissuaded from registering due to the missing phrase. Also, the Agency notes that Baby Jogger has corrected this omission on its on-line registration form and the required statement is present.

e. Spanish Language Type Size:

Paragraph S5.5.2 of FMVSS No. 213 requires the information in the English language to be not smaller than 10 point type. An on-product warning label provided by Baby Jogger has the Spanish information at approximately 7 point type. The English language label is in full compliance with this requirement. Baby Jogger believes that the noncompliant text does not create a risk to motor vehicle safety because the information is clearly displayed on the affected child restraints and clearly communicates the required information.

NHTSA believes that the 7 point type text provided in the Spanish language label is not clearly displayed and is difficult to read. The smaller font size likely poses a challenge to the consumer's ability to read the text and could result in the consumer ignoring the text due to the difficulty in being able to read it. NHTSA disagrees with Baby Jogger's reasons for inconsequentiality as supported by the reasons stated above under the category "Information Type Size."

*NHTSA's Decision:* In consideration of the foregoing, NHTSA has determined that Baby Jogger has not met its burden of persuasion that the subject FMVSS No. 213 noncompliances are inconsequential to motor vehicle safety for: (a) Information Type Size/Capitalization/Presentation order, (b) Background color (excluding the 10 percent tint noncompliance), (c) On-Product Label Message Area and Pictogram Sizes (excluding the pictogram noncompliance), (d) Omitted Information (excluding the missing statement at the top of the on-line registration form), and (e) Spanish Language Type Size. Accordingly, Baby Jogger's petition is hereby denied for these noncompliances and Baby Jogger is obligated to provide notification of, and free remedies for, the noncompliances as required under 49 U.S.C. 30118 and 30120.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the

noncompliances identified above as "excluded" in its petition are inconsequential to motor vehicle safety: (b)minimum 10 percent tint on registration card, (c)minimum 30 mm diameter pictogram on air bag warning label, and (d)missing statement at the top of the on-line registration form. Accordingly, we grant its petition on these issues.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Issued on:** August 2, 2016

---

Stephen A. Ridella  
Acting Associate Administrator  
for Enforcement

**Billing Code:** 4910-59-P

[FR Doc. 2016-18770 Filed: 8/8/2016 8:45 am; Publication Date: 8/9/2016]